

June 29, 2022

OFFICIAL RESPONSE TO SIGNIFICANT ENVIRONMENTAL POINTS RAISED DURING THE TIMBER HARVESTING PLAN EVALUATION PROCESS

FROM THE DIRECTOR OF THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CAL FIRE)

TIMBER HARVESTING PLAN (THP) No:
SUBMITTER:
COUNTY:
END OF PUBLIC COMMENT PERIOD:
DATE OF RESPONSE AND APPROVAL:

1-22-00023-MEN
Mendocino Redwood Company, LLC
Mendocino
June 3, 2022
June 29, 2022

The California Department of Forestry and Fire Protection (CAL FIRE) serves as the lead agency in the review of Timber Harvesting Plans. These plans are submitted to CAL FIRE, which directs a multidisciplinary review team of specialists from other governmental agencies to ensure compliance with environmental laws and regulations. As a part of this review process, CAL FIRE accepted and responded to comments, which addressed significant environmental points raised during the evaluation of the plan referenced above. This document is the Director's official response to those significant environmental points, which specifically address this Timber Harvesting Plan. Comments, which were made on like topics, have been grouped together and addressed in a single response. Remarks concerning the validity of the review process for timber operations, questions of law, or topics and concerns so remote or speculative that they could not be reasonably assessed or related to the outcome of a timber harvesting operation, have not been addressed.

Sincerely,

DocuSigned by:
James Strong
0D93DC44F2A0422...

James Strong
Forester II, Forest Practice
RPF #2689



cc: RPF, Unit, File; Timber Owner, Timberland Owner and/or Submitter
CP, CDFW, DPR, & RWB

<https://caltreesplans.resources.ca.gov/caltrees/caltrees.aspx>

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PUBLIC NOTIFICATION

To inform the public of this proposed Timber Harvesting Plan (THP) and determine if there were any concerns with the plan the following actions were taken:

- Notification of the receipt of a timber harvesting plan was sent to the adjacent landowner(s).
- Notice of the receipt of the plan was submitted to the county clerk for posting with other environmental notices.
- Notice of the plan was posted at the Department's local office and also at the regional office in Santa Rosa.
- Notice of the receipt of the THP was sent to those organizations and individuals on the Department's list for notification of plans in the county.
- A "Notice of the Intent to Harvest Timber" was posted near the plan site.

THP REVIEW PROCESS

The laws and regulations that govern the Timber Harvesting Plan review process are found in Statute law in the form of the Forest Practice Act which is contained in the Public Resources Code (PRC) and administrative law in the rules of the Board of Forestry and Fire Protection (the Forest Practice Rules) which are contained in the California Code of Regulations (CCR).

The Forest Practice Rules are lengthy in scope and detail and provide explicit instructions for permissible and prohibited actions that govern the conduct of timber operations in the field. The major categories covered by the rules include:

- Timber Harvesting Plan contents and the Timber Harvesting Plan review process
- Silvicultural methods
- Harvesting practices and erosion control
- Site preparation
- Watercourse and lake protection
- Hazard reduction
- Fire protection
- Forest insect and disease protection practices
- Coastal Commission Special Treatment Areas
- Use, construction and maintenance of logging roads and landings
- County-specific rules

When a THP is submitted to the Department, it undergoes a multidisciplinary review consisting of several steps. In addition to CAL FIRE, the Review Team members include representatives of the California Department of Fish and Wildlife (CDFW); the appropriate Regional Water Quality Control Board (RWQCB or RWB); California Geological Survey (CGS); the Department of Parks and Recreation (DPR); the appropriate County Planning office; and if within their jurisdiction, the Coastal Commission (CC) (14 CCR §1037.5(a)). Once submitted the Director determines if the plan is accurate, complete, and in proper order, and if so, files the plan (14CCR §1037). In addition, the Review Team determines whether a Pre Harvest Inspection (PHI) is necessary, and what areas of concern are to be examined during the inspection (14 CCR §1037.5(g)(1)).

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If the plan is accepted for filing, and a PHI is determined to be needed, a field review is conducted to evaluate the adequacy of the THP. All agency personnel who comprise the multidisciplinary Review Team are invited to attend the PHI as well as other experts and agency personnel whom the Department may request. During this field review, additional mitigation and/or recommendations may be formulated to provide greater environmental protection. These recommendations are forwarded to the RPF along with the Review Team member's PHI Report. The RPF will respond to the recommendations made and forward these to the Region office and Second Review Team Chair.

A Second Review Team meeting is held where members of the multidisciplinary Review Team meet to review all the information in the plan, and develop a recommendation for the Director (14 CCR §1037.5(g)(2)). Prior to and/or during this meeting they examine all field inspection reports, consider comments raised by the public, and discuss any additional recommendations or changes needed relative to the proposed THP. These recommendations are forwarded to the RPF. If there are additional recommendations, the RPF will respond to each recommendation, and forward their responses to the regional office in Santa Rosa.

The representative of the Director of the Department reviews all documents associated with the proposed THP, including all mitigation measures and plan provisions, written correspondence from the public and other reviewing agencies, recommendations of the multidisciplinary Review Team, and the RPF's responses to questions and recommendations made during the review period. Following consideration of this material, a decision is made to approve or deny a THP.

If a THP is approved, logging may commence. The THP is valid for up to five years, and may be extended under special circumstances for a maximum of two more years, for a total of seven years.

Prior to commencing logging operations, the Registered Professional Forester must meet with the licensed timber operator (LTO) to discuss the THP (CCR §1035.2); a CAL FIRE representative may attend this meeting. The Department makes periodic field inspections to check for THP and rule compliance. The number of inspections depends upon the plan size, duration, complexity, and the potential for adverse impacts. Inspections include but are not limited to inspections during operations pursuant to Public Resources Code (PRC) section 4604, inspections of completed work pursuant to PRC section 4586, erosion control monitoring as per PRC section 4585(a), and stocking inspection as per PRC section 4588.

The contents of the THP, the Forest Practice Act, and rules, provide the criteria which CAL FIRE inspectors use to determine compliance. While the Department cannot guarantee that there will be no violations, it is the Department's policy to vigorously pursue the prompt and positive enforcement of the Forest Practice Act, the Forest Practice Rules, related laws and regulations, and environmental protection measures that apply to timber operations on non-federal land in California. This enforcement is directed primarily at preventing forest practice violations, and secondarily at prompt and adequate correction of violations when they occur.

The general means of enforcement of the Forest Practice Act, the rules, and other related regulations range from the use of violation notices, which require corrective action, to criminal proceedings through the court system. Timber operator and Registered Professional Forester licensing action may also be pursued. Most forest practice violations are correctable and the

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Department's enforcement program assures correction. Where non-correctable violations occur, criminal action is usually taken. Depending on the outcome of the case and the court in which the case is heard, some sort of environmental corrective work is usually done. This is intended to offset non-correctable adverse impacts.

Once harvesting operations are finished, a completion report must be submitted certifying that the area meets the requirements of the rules. CAL FIRE inspects the area to verify that all aspects of the applicable rules and regulations have been followed, including erosion control work. Depending on the silvicultural system used, the stocking standards of the rules must be met immediately or in certain cases within five years. A stocking report must be filed to certify that the requirements have been met.

FOREST PRACTICE TERMS

CAL FIRE	Calif. Dept. of Forestry & Fire Protection	NCRWQCB	North Coast Regional Water Quality Control Board
CCR	California Code of Regulations	PHI	Pre-Harvest Inspection
CDFW	California Department of Fish and Wildlife	PRC	Public Resources Code
CEQA	California Environmental Quality Act	RPF	Registered Professional Forester
CGS	California Geological Survey	THP	Timber Harvesting Plan
DBH/dbh	Diameter at Breast Height	WLPZ	Watercourse & Lake Protection Zone
THP	Timber Harvest Plan	TMDL	Total Maximum Daily Loads
FPR	Forest Practice Rules	MSP	Maximum Sustained Production of High Quality Timber Products
DPR	Department of Pesticide Regulation (same as CDPR)	CALTREES	CAL FIRE's publicly available online database for harvesting permits
CDPR	California Department of Pesticide Regulation	WLPZ	Watercourse and Lake Protection Zone
MAMU	Marbled Murrelet	BA	Basal Area
CSDS	Controllable Sediment Discharge Source	SSMP	Site Specific Management Plan
ECP	Erosion Control Plan	MRC	Mendocino Redwood Company, LLC

[sic] Word used verbatim as originally printed in another document. May indicate a misspelling or incorrect word usage

BACKGROUND

Timber Harvesting Plan (THP) # 1-22-00023-MEN "Buehler 2021" proposes to harvest timber on 280 acres of Mendocino Redwood Company, LLC timberland using the Variable Retention, Selection silvicultural methods. The THP was initially received by CAL FIRE on February 24, 2022 and was accepted for filing on March 3, 2022. A Preharvest Inspection (PHI) was conducted over three days; March 23, March 24 and April 6, 2022. Attendees on this PHI included:

- Kevin Doherty (CGS)
- Kenneth Margiott (CAL FIRE Inspector)
- Daniel Harrington (CDFW)
- Chris Hayter (RPF), Eric Hontou (RPF), and Chris Morris (Biologist) from Mendocino Redwood Company
- Isaac Russo and James Burke (NCRWQCB)

- Ben Harris (CAL FIRE archeologist)

The Final Interagency Review (aka Second Review) began on May 10, 2022; which generated five recommendations. The RPF responded to these recommendations on May 13, 2022. Another Second Review meeting occurred on May 24, 2022, and the Second Review Chair recommended the plan be approved. The public comment period then ended on June 3, 2022.

The initial deadline for the Director's Determination Deadline (DDD) was set for June 24, 2022 per 14 CCR § 1037.4. One extension was needed, and granted to extend the DDD to July 1, 2022, to address public comments, generate the Official Response (OR) to concerns brought up by the public, and evaluate the Plan for final approval.

PUBLIC COMMENT SUMMARY

During the public comment period for this THP as described above, there were two public comment letters received at the CAL FIRE Region Headquarters in Santa Rosa. The public comments brought up concerns that are addressed in this Official Response (OR). General concerns are grouped by subject matter and followed by the Department's response. Original text taken directly from the public comment, rules, reports, or the THP are presented as italicized text. Words that are emphasized in responses have underlined font. The public comments are identified with the CAL FIRE "PC" code. A copy of the original letters sent to the Department are viewable through the Department's online Forest Practice Database CalTREES.

CalTREES instructions: navigate to <https://caltreesplans.resources.ca.gov/caltrees/caltrees.aspx> Click the search icon at the top of the page, then type the Plan # in the Record Number box (county identifier not needed). Under the Document Number column, select the Plan Number for the "Timber Harvest Plan" Type. Below the "Record Details" should be a list of attachments for the Plan. (Note: if there are a substantial number attachments, or attachments with large file sizes, it may take some time to load). The Public Comments are labeled under "Record Type" and are in pdf format, usually with a "PC" label.

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SUMMARY OF SIGNIFICANT ENVIRONMENTAL GENERAL CONCERNS WITH RESPONSES

CONCERN 1: Sediment and Temperature TMDL Impacts to Garcia River Watershed.

The letter expressed concern that timber operations would lead to significant temperature and sediment impacts.

RESPONSE: The THP drains to the Big River, which is a 303(d) listed for sediment and temperature. 303(d) is term used by NCRWQCB to denote watercourses that have been impacted in some way. The Plan proposes 170 acres of Selection, 108 acres of Variable Retention, and 2 acres of No Harvest utilizing tractor and cable yarding. Tractor yarding is limited to gentler slopes (see discussion on pages 94-95 of the THP). The plan outlines on pages 109-112, a partial list of measures to reduce, mitigate or avoid sediment production. Sediment impacts could occur due to sediment transport from roads into watercourses, activation of slides, and disturbance of soils near watercourses. The Plan seeks to minimize the potential for these issues by:

- Comply with the Anadromous Salmonid Protection (ASP) rules which provide WLPZ buffers on all Class I and Class II watercourses and equipment limitation zones on Class III watercourses.
- Soil disturbance on steep slopes is minimized by using modern cable yarding harvest systems.
- Existing and potential sediment production sites have been identified and corrective action proposed, as detailed in the Erosion Control Plan (ECP).

The THP includes an Erosion Control Plan (ECP) in THP Section V, pages 240-246. The ECP documents an inventory, prioritization, and proposed treatment of potential Controllable Sediment Discharge Sources (CSDS) in the plan area. This plan has a number of CSDS's, which are listed on pages 243-245, which were reviewed by the review team agencies, including CAL FIRE, NCRWQCB, CGS, and CDFW during the PHI. The identification and inventory of these sources shows how the current road system will be upgraded for long-term decrease in erosion to the watershed.

The THP addresses roads under item 24 of Section II of the THP (starting page 32). The Plan proposes to build 5,170 feet of new seasonal road. The FPRs require that all roads be maintained during the life of the THP as well as 3 years after completion of operations.

The CGS had recommendations surrounding road points, and unstable features that were all addressed. Additionally, a pre-consultation was done by CGS and is included in the THP on pages 238.1-238.5.

Sediment may also enter the watershed via the watercourse system. The RPF has mapped all watercourses within the THP area. During the PHI, the review team inspected a sample of the watercourses. The PHI team found the watercourses were appropriately identified and protection measures were consistent with the FPRs. The RPF utilized the WLPZ standards consistent with the Anadromous Salmonid Protection (ASP) rules. The 2009 ASP rules were developed to ensure rule adequacy in protecting listed anadromous salmonid species and their habitat, to further opportunities for restoring the species' habitat, and to ensure the rules are based on credible

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science. The THP implements these minimum standards. According to the CAL FIRE PHI report, page 15, item 75, the following question was asked.

If there are waterbodies within or downstream of the proposed Plan that are listed as water quality limited under Section 303(d) of the Federal Clean Water Act, has the RPF assessed for impacts that may combine with existing listed stressors to impair beneficial uses of the waterbody?

The CAL FIRE inspector responded with the following:

Inspectors Observations: During the PHI, I assessed the impacts to the beneficial uses of water. During the PHI, I observed the proposed timber operations will not significantly impact the beneficial uses of water. I observed that the proposed road work along with agency recommendations will significantly reduce potential sediment delivery into watercourses within and downstream of the THP area.

Item 76 on the next page (16) from the CAL FIRE PHI report, states the following:

Comments or general observations regarding Cumulative Impacts: The RPF is proposing new road and landing construction for this THP. However, new road and landing constructed will have fewer impacts than conducting ground based yarding operations over long distances and along steep slopes above watercourses. During the PHI, I observed that ground based yarding operations can be conducted using a well designed skid trail system with minimal impacts to soil compaction, loss of growing space and with minimal damage to the residual timberstand. Most of the steeper slopes will be cable yarded.

Lastly, pages 2 and 3 of PHI report generated by NCRWQCB states the following.

*On November 29, 2005, the Executive Officer of the North Coast Regional Water Quality Control Board approved an erosion control plan (ECP) and site-specific management plan (SSMP) for the MRC property in the Garcia River watershed. The approved ECP and SSMP establish an agreement between the Executive Officer and the MRC detailing the methods for compliance with the terms of the Garcia TMDL Action Plan. The RPF has appropriately incorporated the required elements of the approved compliance measures into Sections II and III of THP 1-22-00023 MEN. During my field inspection and office review of the THP, I focused on addressing measures to prevent and minimize the discharge of earthen materials from controllable sediment sources as well as the maintenance of sufficient canopy around waterbodies to protect onsite and downstream beneficial uses of water. The purpose of my participation in the PHI was to evaluate the adequacy of the proposed management practices to meet narrative water quality standards established in the Basin Plan. While substantially representative portions of the THP were inspected during the PHI, not all proposed harvest areas or road locations were inspected. Other members of the review team are expected to provide recommendations related to water quality. We discussed specific recommendations during the PHI, and I concur with those being necessary for water quality protection. Therefore, in the interest of efficiency, those recommendations will not be reiterated here. However, the Regional Water Board concurs with recommendations related to water quality protection (**RWB Recommendation***

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1.)

The RPF has incorporated the Water Qualities Review Team recommendations. The proposed silviculture system also provides an additional buffer to the watercourse system because of the additional tree canopy retention and surface cover remaining post-harvest. The residual stand intercepts rainfall and provides a more intact surface cover, especially in the cable yarding areas where exposed soil is minimized.

The THP also includes soil stabilization measures under item 18 of the THP. These measures ensure that exposed soil is treated to prevent erosion, roads and landings are maintained for proper drainage, and skids trails are treated. The completion of these activities minimizes soil erosion. Soil stabilization in combination with the WLPZ standards provides a sediment buffer to streams.

Stream temperatures are a result of a complicated ecosystem process including forestry, geology and hydrology. Shade from WLPZs moderates stream temperatures through retention of stream canopy. Excessive removal of riparian canopy could lead to excessive summer temperatures that may be lethal to aquatic invertebrates and fish. The retention of WLPZs even along clearcut units has been found to be effective in shading the streams. The amount of shade canopy and distance of WLPZs increases as the watercourse classifications change. For example, small class III watercourses that are capable of transporting sediment during the winter require less shade canopy due to their small stream size and intermittent nature. Class II watercourses, which support non-fish aquatic life, require more shade canopy and wider buffers. Class I watercourses, which support fish habitat, require the widest buffers with the highest shade canopy. The ASP rules were established based on scientific review and have established WLPZs that maintain current stream temperatures through shade canopy requirements.

The THP discloses numerous class I, II and III watercourses. These watercourses have protection measures outlined on pages 38 – 43 of the THP. In addition to the effects of canopy retention on stream temperature, groundwater and bank storage contributes to stream flow and is not subject to changes in temperature from canopy cover.

Given the protection measures on the THP and the field observations made on the PHI, CAL FIRE determined that sediment and temperature impacts have been mitigated and the proposed timber operations are appropriate based on the entirety of the Plan. The plan is in compliance with the FPRs in relation to watercourse protection. According to the PHI report, all watercourses have been correctly described and classified. The protection measures within the watercourses have been inspected and determined to be adequate to protect the beneficial uses of water, native aquatic and riparian species, and the beneficial functions of the riparian zone.

The THP also presents a winter period operating plan of the which the inspector states:

The RPF is proposing timber operations during the wet weather and extended wet weather periods. The RPF includes restrictions that limit ground based yarding, cable yarding and log hauling operations during dry rainless periods when saturated soil conditions do not occur. The RPF includes a statement in the THP that requires that the LTO install erosion controls if a 30 percent chance of rain or more occurs when within a 24 hour period. During the PHI, I made no recommendations to

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address timber operations during the wet weather or extended wet weather periods for this THP.

Due to these mitigations and protection measures, and considering the requirements outlined in the Forest Practice Rules it has been determined that the proposed project as presented will not cause or add to significant cumulative impacts within the assessment area, follows the FPRs, and can reasonably be assumed to adequately consider and protect downstream beneficial uses.

CONCERN 2: There is a concern regarding the lack of an Erosion Control Plan.

RESPONSE: The plan does include an Erosion Control Plan. See Section V of the THP, pages 240-247.

CONCERN 3: The presence of new road points is evidence that road points are not getting fixed over time and that the regulatory process is failing.

RESPONSE: CAL FIRE encourages members of the public to address their concerns to the Board of Forestry if they feel the FPRs are deficient in some way. Road work at road points, existing or new, are required to be completed during the life of a THP in which they are listed. Item 24 of Section II of the THP serves to explain and detail the road work associated with the THP. Additionally, an ECP is included in Section IV of the THP starting on page 240. NCRWQCB attended the PHI and made recommendations regarding road points, and these were all addressed by the RPF in his PHI responses. Similarly, CAL FIRE made PHI recommendations regarding road work and these recommendations were addressed (see items 29-32 [pages 6-8] in the PHI report).

Due to these mitigations and protection measures, and considering the requirements outlined in the Forest Practice Rules it has been determined that the proposed project as presented will not cause or add to significant cumulative impacts within the assessment area, follows the FPRs, and can reasonably be assumed to adequately address road point issues within the THP.

CONCERN 4: The comments from CDFW, CAL FIRE and MRC regarding MAMU are confusing and CAL FIRE failed to present CDFW's Review Team Recommendations and PHI report to MRC

RESPONSE: CDFW chose to present their post PHI questions into CAL TREES directly with no accompanying PHI report. CAL FIRE 2nd Review Chair was expecting a PHI report. This oversight/confusion negatively affected MRC as it delayed the normal timeline of the THP through the Review Process. Page 13 of the PHI report, item 59, states the following:

During the first day of the PHI, MRC Area Manager Chris Hayter, MRC Staff Biologist Chris Morris and CDFW Biologist Daniel Harrington viewed conifer trees that could provide marbled murrelet habitat. During the PHI, CDFW Biologist Harrington did not locate evidence of marble murrelet habitat in the THP area. See the CDFW PHI report for details.

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Indeed, the last statement is misleading as CDFW never provided a PHI report, but rather input questions into the CAL TREES system, to which the RPF responded on May 6, 2022. CAL FIRE did consult with their wildlife biologist during 2nd review, and it was concluded that CDFW has not presented sufficient evidence requiring further MAMU consultations for this THP. To repeat from above, "CDFW Biologist Harrington did not locate evidence of marbled murrelet habitat in the THP area." CALFIRE concurs with MRC's May 6, 2022 response and regrets any delay it may have caused to the company towards the approval of the THP.

PC1

Public Comment ID: 22PC-000000066

Comment Received Date: 6/2/2022

Comment for Plan Number: 1-22-00023-MEN

County: Mendocino

Closest City: Pt. Arena

Email to Notify for Official Response: alevine@mcn.org

Comment:

Attached are Coast Action Group comments on 1-22-00023 MEN

Please acknowledge receipt of comments to Alan Levine alevine@mcn.org

Submitted through
CalTREES 06/02/2022



COAST ACTION GROUP
P.O. BOX 215
POINT ARENA, CA 95468

June 1, 2022

Affiliate of Redwood Coast Watersheds Alliance

Calfire and Review Team Agencies

Subject: Comments 1 – 22 - 00023 MEN – Garcia River

Garcia River watershed (inclusive of tributaries noted in the plan) are listed on the State of California List of Water Quality Limited Segments (303 (d) list) – for pollutants sediment and temperature. This THP must acknowledge this impaired condition, by both pollutants, and demonstrate how the plan is in compliance with the standards required by the Garcia River TMDL and Basin Plan. Basin Plan language states that all controllable pollutants (active and potential sources) will be controlled (absolutely limited) under operations described in the plan. This responsibility commences with an accurate description of the plan, watershed conditions, and actions required and taken to control all existing/active and potential pollution sources by use of narrative/descriptive language, maps, charts, inventories, and monitoring data. Description and analysis provided must be inclusive of historic activity that has affected the watershed and the area in the plan.

It is noted in the plan that a SSMP is being applied, in-lieu of and supplementing the prescriptive standards set forth in the Garcia TMDL for Sediment (Implementation Plan) – i.e. ASP protections are being applied to Class IIs and Class III watercourses.

The plan does not note Garcia River TMDL requirement of an Erosion Control Plan (inclusive of inventory and time scheduled remediation of all existing and potential sediment sources). This is required by the Basin Plan and Non-point Source Policy which includes mandates for robust implementation and effects monitoring (controlling all controllable sources of pollutants). Please demonstrate compliance with these issues in the plan.

Extended Wet Weather Operations. Due to erosion potential during these extended wet weather periods operations should be strictly limited. Such controls are not evident in the plan. See- Garcia River TMDL/Basin Plan and Non-point Source Control management criteria. The SSMP provided: 1) is not consistent with previous boxes marked No in the above sections, 2) does not provide adequate assessment and control of pollutant sources (inclusive of the pollutants sediment and temperature).

Submitted through
CalTREES 06/02/2022

Included in the plan area are numerous erosion sites that should have been corrected previously, as part of previous harvest operations. This is a criticism of previous Review Team management of this ground under the auspices of the Garcia River TMDL and Basin Plan requirements. The Review Team needs to be more on top of these erosion control and thermal management issues. What happened with previously mandated implementation and reporting? This is evidence of ongoing erosion where the plan calls for some repairs that should have previously been implemented. It also demonstrates the need for application of protection measures of all controllable and potential sources along with specific monitoring controls to assure compliance.

Water Course Protection measures. This section notes the existence of the Garcia TMDL, which includes specific watercourse protection criteria. In this case both ASP and the Garcia TMDL watercourse protections apply as base line criteria for protections. That is the greater protection of either ASP or the TMDL must be applied. Stated in the TMDL (Basin Plan): *“no commercial land management activities, including commercial or salvage timber harvest, grazing or crop agriculture, within the first 25 feet of the Riparian Management Zone for Class I or II watercourses.”* This applies to all Class I and Class II watercourses (inclusive of Class IIs) in addition to the ASP language. The TMDL language makes no differentiation between Class IIL and Class IIS in the Garcia River TMDL.

Additionally: *“On Class I and II watercourses, at least five standing conifer trees greater than 32 inches in diameter at breast height (DBH) are permanently retained at any given time per 100 linear feet of watercourse. Where sites lack enough trees to meet this goal, there shall be no commercial harvest of the five largest diameter trees per 100 linear feet of watercourse.”*

And:

“There is no removal of trees from unstable areas within a Riparian Management Zone that have the potential to deliver sediment to a water of the State unless the tree is causing a safety hazard.”

The above is to be applied in addition to ASP

Site Specific Management Plan (SSMP) Validity and Application: In part, erosion control practices in this THP rely on a SSMP. However, the SSMP is not applicable – due to: Necessary elements of an SSMP are not extent. A partial list of SSMP required measures not included are: 1) Long term Road System Management Plan for all properties in the Garcia River, 2) Supporting information that demonstrates that the proposed Land Management Measures will provide a level of water quality protection that is roughly equivalent to that expected from the corresponding measures of the Garcia River Management Plan, 3) Description of Land Management Measures to Improve the Condition of the Riparian Management Zone, 4)

The Site- Specific Management Plan shall include a description of, and schedule for, the Land Management Measures and any restoration activities the landowner proposes to improve or maintain the condition of the Riparian Management Zone such that it provides:

- Stream bank protection,
- Filtering of eroded material prior to its entering the watercourse channel, and
- Recruitment of large woody debris to the watercourse channel and flood plain.

In addition, the description shall include supporting information that demonstrates that the proposed Land Management Measures will provide a level of water quality protection that is roughly equivalent to that expected from the corresponding riparian measures of the Garcia River Management Plan.

The above standards applied to the SSMP indicate (elements demonstrated in the THP including: improper stream classifications and protections, failure to address temperature issues, failure to meet mandated SSMP constituents, etc) that the applicability of the SSMP and/or applied measures in the THP fail to meet the regulatory standard. Also indicated is the need for more robust standards and controls. Furthermore, such SSMP as part of a permitting apparatus under regulatory structure must be provided to the public and other responsible agency as part of review and approval process. Noticing this SSMP for review has not occurred. Note: All policy and plan development in the Basin Plan is subject to public noticing and review.

The THP, and related SSMP, are not consistent with Non-Point Source Policy in the Basin Plan. This THP, and related SSMP, cannot be approved, nor can it be adopted into the General WDR for Timber Operations on Private Lands until consistency with the Basin Plan (all related elements) is attained. Note: FPR 898.2 Special Conditions Requiring Disapproval of a plan: *‘Implementation of the Plan as proposed would cause violation of any requirement of an applicable water quality control plan (Basin Plan) adopted and approved by the State Water Resources Control Board.* “ This criteria also applies to damage to listed species and their habitat.

The THP Water Course Protections noted in the plan are incorrect and need to be revised.

Reliance of application of an SSMP, and Basin Plan and State Water Code requirements includes submission of data (stream temperature monitoring, stream condition monitoring, with trend measurement and assessment of how applied, and proposed, management considerations are actually working, or are intended to work – limiting pollutant inputs as noted in the TMDL source reduction targets.

Note: Review of the SSMP in Section 3 indicates many commendable actions. However, there are missing necessary elements and protections required for the adoption of the SSMP (see requirements in Appendix). Nor...has any analysis, or data, been provided to support

that the SSMP is sufficient, or equivalent to the prescriptions in the Garcia River TMDL and Implementation Plan. These issues can be remedied with some additional work.

Furthermore; this plan does not meet CEQA requirements for full description of the plan and analysis to support the "Informed Decision Making Process" - due to the absence of information and data required by the Basin Plan Non-point Source language and details and requirements of an SSMP - which all must be part of the plan.

The discussion of pollution control in the plan contains no such evidence as described above.

Forest Practice Rules (in the context of the above noted information:

Section 898.2 Special Conditions Requiring Disapproval of Plans – Implementation of the plan as proposed would result in either a “taking” or a finding of jeopardy of wildlife species listed as rare, threatened, or endangered by the Fish and Game Commission, the National Marine Fisheries Service, or the Fish and Wildlife service, or would cause significant, long-term damage to listed species. Additionally, a plan must be disapproved if there is evidence that the information in the plan is incorrect, incomplete, or misleading in a material way, or is insufficient to evaluate significant environmental effects.

Due to the factual basis: The Director must disapprove of a plan that is not consistent with the Basin Plan, and 916.9 (a) (1) of the FPRs states that a plan must be consistent with an approved TMDL – and where the basic requirements of approving and applying a SSMP have not been met, this plan may not be approved without applying the Garcia River TMDL Implementation plan prescriptive measures for stream protection. Calfire must follow the exact wording of the Garcia TMDL and the application of the FPRs for plan approval or disapproval.

I look forward to agency review and your response.

Alan Levine , for Coast Action Group

APPENDIX

Site Specific Management Plan (requirements – from Garcia TMDL Implementation – Basin Plan)

Elements of a Site-Specific Management Plan

1. Description of Land Management Measures to Control Sediment Delivery

A Site -Specific Management Plan shall include a description of, and schedule for, the Land Management Measures the landowner proposes to implement to control the future delivery of sediment from the following land management activities:

- Roads, landings, skid trails, watercourse crossing construction, reconstruction, maintenance, use, and obliteration;
- Operations on unstable slopes;

- Use of skid trails and landings;
- Use of near stream facilities, including agricultural activities; and
- Gravel mining.

In addition, the description must include:

- A Long-term Road System Plan (Road Plan) similar to that described below in the Garcia River Management Plan, and

- Supporting information that demonstrates that the proposed Land Management Measures will provide a level of water quality protection that is roughly equivalent to that expected from the corresponding measures of the Garcia River Management Plan.

2. Description of Land Management Measures to Improve the Condition of the Riparian Management Zone

The Site- Specific Management Plan shall include a description of, and schedule for, the Land Management Measures and any restoration activities the landowner proposes to improve or maintain the condition of the Riparian Management Zone such that it provides:

- Stream bank protection,
- Filtering of eroded material prior to its entering the watercourse channel, and
- Recruitment of large woody debris to the watercourse channel and flood plain.

In addition, the description shall include supporting information that demonstrates that the proposed Land Management Measures will provide a level of water quality protection that is roughly equivalent to that expected from the corresponding riparian measures of the Garcia River Management Plan.

B. Nonpoint Source Policy

Many water bodies in the North Coast Region are impaired by nonpoint sources (NPS) of pollution, such as sediment discharges and elevated water temperatures. Therefore, many of the following TMDL action plans focus on NPS pollution control.

The Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program (NPS Policy) is a state-wide policy that explains how existing permitting and enforcement tools will be used to address nonpoint sources of pollution. The NPS Policy states that all current and proposed NPS discharges must be regulated under waste discharge requirements (WDRs), waivers of WDRs, a basin plan prohibition, or some combination of these tools.

A NPS pollution control implementation program is a program developed to comply with WDRs, waivers of WDRS, or basin plan prohibitions. A NPS pollution control implementation program must contain five key elements, which are summarized as follows:

Key Element 1: Explanation of the purpose of the NPS pollution control implementation program and how it will meet water quality standards.

Key Element 2: Description of the management practices and other program elements that are to be used to meet water quality standards and an evaluation that ensures proper implementation.

Key Element 3: A time schedule with quantifiable milestones.

Key Element 4: Adequate monitoring.

Key Element 5: The potential consequences for failure.

From: Linda Perkins <lperkins@mcn.org>
Sent: Friday, June 3, 2022 3:49 PM
To: Santa Rosa Public Comment@CALFIRE; Santa Rosa Review Team@CALFIRE
Subject: Comment on THP 1-22-00023-MEN Buehler 2021
Attachments: comments on MRC Garcia 1-22-00023-MEN.odt

PC2

Warning: this message is from an external user and should be treated with caution.

Hello,

I wasn't sure which address to send these comments to, so I'm trying both. Please add the attached comments to the record of THP 1-22-00023-MEN, Buehler 2021.

Thank you.

Linda Perkins

(7070937-0903

PO Box 467

Albion CA 95410

RECEIVED

JUN 03 2022

**COAST AREA OFFICE
RESOURCE MANAGEMENT**

June 1, 2022

Linda Perkins
Albion River Watershed Protection Association/
Friends of Salmon Creek (ARWPA/FOSC)
PO Box 467, Albion CA 95410
(707) 937-0903

RECEIVED

JUN 03 2022

**COAST AREA OFFICE
RESOURCE MANAGEMENT**

Director
Department of Forestry and Fire Protection
Northern Region Headquarters – Santa Rosa
135 Ridgway Avenue
Santa Rosa CA 95401

Regarding Timber Harvest Plan 1-22-00023-MEN, Mendocino Redwood Company on the Garcia River

Dear Director and Others To Whom It May Concern:

Please accept these comments on THP 1-20-00023-MEN on behalf of Albion River Watershed Protection Association/Friends of Salmon Creek. (ARWPA) We have read the timber plan and agency reports.

(1) These comments relate to potential impacts to the marbled murrelet as a result of operations on the Buehler plan – 1-22-00023-MEN.

We believe the Director needs to disapprove this timber plan pursuant to 14CCR 898.2 Special Conditions Requiring Disapproval of Plans, specifically pursuant to 898.2(c), “There is evidence that the information in the plan is incorrect, incomplete or misleading in a material way or is insufficient to evaluate significant environmental effects...” and 898.2(d), “Implementation of the plan as proposed would result in either a “taking” or finding of jeopardy of wildlife species listed as rare, threatened, or endangered by the Fish and Game Commission, the National Marine Fisheries Service, or Fish and Wildlife Service...”

In addition, forest practice rule 14CCR 919.11 states, “Where there is evidence of an active murrelet site in or adjacent to the THP area, or where there is evidence of a potential Impact to a murrelet, the Director shall consult with CDFW as to whether the proposed THP will result in a "take" or "jeopardy" (pursuant to the California Endangered Species Act) of the murrelet before the Director may approve or disapprove a THP.”

We outline below how the timber plan lacks the information to allow the Director to make a determination that the proposed operations will not result in potential impact to a murrelet.

The conservation/listing status of the marbled murrelet is noted on page 56, section II of the plan as being 'threatened' under the Federal Endangered Species Act and 'endangered' under the California Endangered Species Act. In addition, the marbled murrelet is also designated by the Board of Forestry as a sensitive species. (Please see 14 CCR 895.1 “Sensitive Species”.)

(2) What follows is a list of the information provided in the record of the plan relating to the

marbled murrelet:

THP Section II, page 56, describes the listing status of the marbled murrelet and goes on to say, “Individual trees exhibiting characteristics indicative of potentially suitable habitat for the marbled murrelet exist within and adjacent to the THP area. In all instances, these trees are to be retained. The plan submitters Forest Science Staff have prepared an analysis indicating why these trees, even though they have characteristics of trees indicative of habitat, do not represent suitable potential marbled murrelet habitat. See map and analysis in THP Section V.”

THP, Section III, page 134, states “The Watershed Assessment Area may contain functional habitat for the marbled murrelet. The THP area and areas within a ¼ mile contain trees that have characteristics of suitable structure for the marbled murrelet. A field inspection was conducted on 10/05/2021 with the MRC biologist Chris Morris. The conclusion drawn during this inspection was that although these individual trees could contain the structure necessary, they do not constitute habitat due to their location high on the ridge, exposure to extreme wind events and predators, and a lack of sheltering canopy. Section II contains protection measures in the event that murrelet nesting behavior is observed in potential habitat. “

THP Section IV, pp. 171-172 – These pages contain a summary of the “Status”, “Distribution”, “MRC Distribution and Survey Information”, “Habitat”, “Life History”, “Conservation Measures”, and “Likelihood of “take” or “Significant adverse impacts resulting from proposed operations.” Under this last category is the conclusion, “Highly unlikely.” Repeated is the information above from Section III regarding analysis of potential habitat and, again, a referral to Section V. of the plan.

THP, Section V, pp. 287-291 – These pages describe the area being assessed for the marbled murrelet, the results of survey efforts made in that area for the murrelet, and a repeat of the results of the field visit to the THP. The conclusion is – again – that the locations visited are “not suitable for nesting by MAMU.”

THP, Section V, pp 294 and 294.1 – a map of the assessment area and a map of individual trees on the THP that might constitute suitable habitat.

PHI Report with Recommendations 5-4-2022 the CalFire inspector states “During the PHI, CDFW Biologist Daniel Harrington did not locate evidence of marbled murrelet habitat in the THP area. See the CDFW PHI report for details.” [Reviewer's comment: There is no CDFW PHI report in the plan record.]

RPF Response to CDFW PHI Recommendations 5-6-2022 This document is the first indication to the public that CDFW had concerns regarding murrelet habitat on the THP. This reviewer quotes the RPF quoting the CDFW biologist as stating, “CDFW staff reviewed photographs, data, as well as field notes and observations collected during the PHI and concluded additional, focused discussion is warranted for what appears to be an, approximately, ten acre stand of suitable Marbled Murrelet habitat, which may be affected by timber operations.” The CDFW biologist then recommends, “The RPF will consult with CDFW for potentially suitable Marbled Murrelet habitat....” Following this is the RPF's response which is “Disagree....There is no evidence of an active Murrelet site, nor has any evidence been presented of a potential impact to a Murrelet.”

Second Review Team Letter 5-12-2022 – This letter from the CalFire Second Review Team Chair to the MRC forester reads in part, “Since there is still disagreement between MRC and CDFW regarding

the potential suitable MAMU habitat in and near this THP, another second review will need to be scheduled for next week 5/19/2022. *I will need that time to consult with CALFIRE biological staff, review the information that has been submitted and confer with other wildlife experts.* I will withhold making a decision until the next second review.”

Review Team Recommendation to the Director – 5-24-2022 – After the 5-19-2022 second 2nd Review Team meeting CalFire's 2nd RT Chair recommends the THP for approval with no information added to the plan as to the outcome regarding the “disagreement” over marbled murrelet habitat.

(3) Reviewer comments on the failure of CalFire to include information supporting their determination not to forward the CDFW recommendation to consult on suitable Marbled Murrelet Habitat.

Apparently – because the CDFW recommendation for consultation was not forwarded to MRC - the CalFire Second Review Team chair resolved the 'disagreement' in some manner that was in agreement with the timberland owner/plan submitter's assessment of suitable habitat. .

Unfortunately, though the CalFire Review Team Chair had stated that he would, “*consult with CALFIRE biological staff, review the information that has been submitted and confer with other wildlife experts,*” there is nothing in the record that any of that was done - information gathering or consulting - or even reporting on the discussion and outcome of the additional 2nd RT meeting on 5-19. The concern by CDFW simply disappeared. How was the decision by the review team chair made, what data, photos, reports, consultations or other information did he use and what was the rationale for making the decision not to require that MRC consult with CDFW? How did he determine that the habitat in question was 'not suitable' and that his own determination to over-ride the expertise of CDFW, the trustee agency, would not result in the potential 'take' of this federally-threatened, state endangered murrelet?

In addition, the public was not given sufficient information - even as to the location of the presumed 10-acre habitat area - to allow meaningful public input. Was it on, or partially on, the THP area? Was it on the area of the THP where the greater cluster of large trees was located, map page 294.1? That seems the likely location, but that is conjecture and certainly not an exact locale. Or was it some other area that is not obvious. In either case, what would be the impacts from falling, yarding, hauling, road construction, herbicide use or other activities be? Why did CDFW consider that area potentially suitable habitat, or – if it was such – what might be the potential impacts to it as a result of timber operations or – if such potential impacts existed - how might they be mitigated?

Thus the lack of information in the plan regarding the murrelet precludes any meaningful public input. Actually, no one, agency or public, could assess – based on the plan record - whether these timber operations had the potential to result in the 'take' of the marbled murrelet.

We believe the additional information that allowed CalFire to make a recommendation of approval - without including CDFW's recommendation to consult regarding suitable marbled murrelet habitat - needs to be added to the plan record and the plan re-circulated for further agency and public review.

Sincerely,

Linda Perkins, ARWPA

